

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

KWAI FUN WONG and WU WEI TIEN TAO)
ASSOCIATION,)

Plaintiffs,)

v.)

DAVID V. BEEBE, JOHN DOE IMMIGRATION)
AND NATURALIZATION SERVICE (nka)
DEPARTMENT OF HOMELAND SECURITY))
OFFICIALS, and UNITED STATES OF)
AMERICA,)

Defendants.)

Civil No. 01-718-ST

ORDER

Beth Ann Creighton
Zan E. Tewksbury
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JONES, Judge:

Magistrate Judge Janice M. Stewart filed Findings and Recommendation (#325) on February 14, 2006, in the above entitled case. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). When either party objects to any portion of a magistrate judge's Findings and Recommendation, the district court must make a de novo determination of that portion of the magistrate judge's report. See 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982).

Plaintiff Wong and Defendants have timely filed objections. I have, therefore, given de novo review of Magistrate Judge Stewart's rulings.

I find no error. Accordingly, I ADOPT Magistrate Judge Stewart's Findings and Recommendation (#325) dated February 14, 2006, in its entirety. Plaintiff Kwai FunWong's Motion (#192) for partial summary judgment is denied and the United States' cross-motion (#206) for partial summary judgment on plaintiff Kwai Fun Wong's false imprisonment claim is granted without prejudice. Accordingly, the United States is granted summary judgment against

the portion of the Fifth Claim for Relief by Wong alleging a violation of the FTCA based on the tort of false imprisonment. However, Wong is granted leave to replead her FTCA claim to the extent she can allege a viable tort claim outside the due care exception to the FTCA concerning the manner in which she was detained when defendants executed the expedited removal order.

IT IS SO ORDERED.

DATED this 10th day of April, 2006.

/s/ Robert E. Jones

ROBERT E. JONES

United States District Judge